

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JOHNAS ORTIZ,	:	CIVIL ACTION NO. 06-206 SLR
	:	
Plaintiff	:	
v.	:	
CIVIGENICS, INC.,	:	
RUSSELL BUSKIRK ET AL	:	
	:	
	:	
Defendants	:	

CERTIFICATE OF SERVICE

I, Michael L. Ripple, Esquire, do hereby certify that copies of the foregoing Response of Defendants Russell Buskirk and Civigenics to Plaintiff's Affidavit for Entry of Default were served by First Class Mail, postage prepaid on the following *Pro se* Plaintiff on March 8, 2007:

Johnas Ortiz, Plaintiff
#305401
Howard Young Correctional Ctr.
1301 East 12th Street
Wilmington, DE 19807

New Castle County Department of Probation
26 Parkway Circle
New Castle, DE 19720

Department of Health and Social Services
1901 N. Dupont Highway
New Castle, DE 19720

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/s/ Michael L. Ripple
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Attorney for Defendants, Civigenics and Russell

Buskirk

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FOR THE DISTRICT OF DELAWARE**

JOHNAS ORTIZ,	:	CIVIL ACTION NO. 06-206 SLR
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Plaintiff	:	
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RUSSELL BUSKIRK ET AL	:	
	:	
	:	
Defendants	:	

ORDER

AND NOW, upon consideration of Plaintiff's Motion and Affidavit for Entry of Default against Defendants Russell Buskirk and Civigenics, and the response offered thereto, it is hereby ORDERED that said Motion is DENIED on this _____ day of _____, 2007.

The Honorable Sue L. Robinson

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

JOHNAS ORTIZ

Plaintiff,

v.

**RUSSELL BUSKIRK,
CIVIGENICS, INC., et al.**

Defendants.

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C. A. NO. 06-206 SLR

**RESPONSE OF DEFENDANTS BUSKIRK AND CIVIGENICS TO AFFIDAVIT
FOR ENTRY OF DEFAULT**

Russell Buskirk and Civigenics, Inc. (“Defendants”), by and through their undersigned attorneys, hereby file the following response to Plaintiff’s Affidavit for Entry of Default and in support thereof avers as follows:

1. Admitted.
2. Admitted.
3. Denied as stated. Defendants executed a Waiver of Service on October 5, 2006.
4. Denied as stated. By way of further response, Defendants do acknowledge that more than 60 days have passed since the Waiver of Service was executed.
5. Denied. Defendants filed a Motion to Dismiss (“Motion”) on December 4, 2004 (Doc. En. No. 24) with a copy of the Motion served upon Plaintiff via United States Postal Service First Class Mail on the same date. (See Certificate of Service attached to Defendants’ Motion to Dismiss, Doc. En. No. 24). By way of further response, no correspondence addressed to Plaintiff and sent by counsel for Defendants has been

returned to them.

6. Admitted.

7. Denied. Defendants are without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph, and on that basis deny those averments. To the extent that the averments in this paragraph are deemed to be legal conclusions, no response is required pursuant to the Federal Rules of Civil Procedure.

For the foregoing reasons, Defendants respectfully request that this Honorable Court deny Plaintiff's Affidavit for Default Judgment.

Respectfully submitted,

Dated: March 8, 2007

By: /s/Carla P. Maresca

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Russell Buskirk*

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